UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

CONTRA COSTA SENIOR LEGAL SERVICES (Richmond, CA)

Employer

and Case No. 32-RC-5442

NATIONAL ORGANIZATION OF LEGAL SERVICES WORKERS NOLSW, UAW LOCAL 2320, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

The Employer, Contra Costa Senior Legal Services, a non-profit California corporation, provides free legal assistance to Contra Costa County residents, age 60 and over. Petitioner, the National Organization of Legal Services Workers NOLSW, UAW Local 2320, AFL-CIO, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent certain employees of the Employer. On June 20, 2006, a hearing officer of the Board conducted a hearing in this matter.

By its petition, the Union seeks a unit of all full-time and regular part-time employees at all of the Employer's facilities, including attorneys, paralegals, pro-bono coordinators, secretaries, and other support staff. The record reflects that the petitioned-for unit consists of three employees working out of the Employer's Richmond, California facility. The two issues in dispute in this case are raised by the Employer. The Employer contends that it does not meet the $250,000 jurisdictional revenue limit established by the Board for legal service organizations. It

also contends that Directing Attorney Robert Ross should be excluded from the unit because he is a statutory supervisor within the meaning of the Act.[1]

I have considered the evidence and arguments presented by the parties at hearing and in the Petitioner's brief and,[2] as discussed below, I conclude that the Employer meets the Board's jurisdictional requirements and that Ross is not a statutory supervisor within the meaning of the Act. I further find that a unit comprising all full-time and regular part-time attorneys, paralegals, pro-bono coordinators, secretaries, and other support staff at the Employer's Richmond, California facility, excluding all volunteers, guards, and supervisors as defined in the Act, is an appropriate unit.

FACTS

Jurisdiction

The Employer reports its income to the Internal Revenue Service (IRS) on a fiscal year basis using IRS Form 990 Return of Organization Exempt from Income Tax. The most recent Form 990 was submitted for the fiscal year covering July 1, 2004 through June 30, 2005, in which the Employer reported gross revenue of $466, 686. Of this amount, $238,400 came from donations and federal, state and local city and county grants, and $228,286 came from "donated services and use of facilities," defined as "in kind" contributions by the Employer in the financial statement it prepares in support of the tax forms it files with the IRS.[3] Of the $228,286 of in-kind contributions,

[1] At the outset of the hearing, the Employer argued that the pro-bono coordinator, Laine Lawrence, and office manager Suzanne Tchan-Gross were also supervisors within the meaning of the Act and that the petitioned-for unit was not appropriate because the employees do not share a community of interest. However, before the close of hearing, the Employer withdrew these assertions. Thus, the Employer does not challenge the appropriateness of the petitioned-for unit.

[2] The Employer did not file a brief.

[3] At the time of the hearing, the Employer did not have available Form 990, Financial Statements or the Independent Auditor's Report for the period covering July 1, 2005 through June 30, 2006. However, the Employer provided a Profit and Loss Statement for the period covering July 1, 2005 through June 19, 2006 estimating that its

the Employer estimates in its financial statement that the fair market value of pro-bono attorney services received was $209,600, and $18,686 represents "other in-kind contributions". The Employer recognizes the hours of pro-bono attorney work as value added to the service that the Employer provides to its clients.[4]

In fiscal year 2004/2005, the Employer received at least $50,000 in grants from the federal government. Also, the Employer purchased approximately $2554 worth of office supplies from such national concerns as Office Max and Staples; it purchased a Dell computer for $1700 through the internet; and it purchased law books valuing $548 from Nolo Press and Matthew Bender, with Matthew Bender located outside the state of California. In addition, the Employer purchased professional liability insurance from the National Association of Legal Aid (NALDA) located in New York in the amount of $2118.[5]

The Board's jurisdictional standard for employers operating law firms or legal service corporations, such as the Employer, is $250,000 in gross revenue during an applicable 12-month period. See *Foley, Hoag & Eliot*, 229 NLRB 456 (1977); *Wayne County Legal Services*, 229 NLRB 1023 (1977). The Employer argues that it does not meet the Board's statutory jurisdictional standard because its gross revenue was less than $250,000 during both the last

---

gross revenue for that period, excluding in-kind contributions, was $213,456.22. Thus, its gross revenues for the past twelve months are substantially the same as the revenue reported in its 2004/2005 IRS tax forms.

[4] At the end of the fiscal year, Pro-bono Coordinator Lawrence provides to Executive Director Bank the total amount of hours worked for all the volunteer attorneys and then Bank calculates the value of their in-kind services using a $200 per hour increment. Based on the approximate total for in-kind voluntary attorney services of $209,600 during the last fiscal year, volunteer attorneys performed about 1048 hours per year or about 20 hours per week.

[5] As reflected in the Employer's Profit and Loss Statement for the period July 1, 2005 through June 19, 2006, the Employer's expenses during the past twelve months were similar to the expenses it incurred in fiscal year 2004/2005. For example, according to the Profit and Loss Statement, the Employer's professional liability insurance cost $2,130; its "library" expense was $378.52, and its office supplies cost $1,546.72. Thus, the expenses that it incurred in the past twelve months do not appear to have varied significantly from those in fiscal year 2004/2005, and the Employer does not claim otherwise. The Employer also continues to receive grants from the federal government, but the record did not establish how much of the $100,285.28 "Title III" grant is from the federal government, as opposed to state or local grants.

calendar year and the last fiscal year. Rather, the Employer contends that its gross revenue for the past twelve months was approximately $213,456. However, in arriving at that figure, the Employer excluded its in-kind contributions, which, as discussed below, should have been included.

Pursuant to Board law, in-kind contributions are counted in the computation of the jurisdictional amount. See *Austin Developmental Center, Inc.*, 226 NLRB 134 (1976). This approach is also consistent with the income reporting requirements set forth by the IRS, which requires organizations such as the Employer to report in-kind contributions, including "donated services," as income.[6] Indeed, such contributions, like monetary contributions, appear to play a vital role in the Employer's providing of legal services to seniors. Moreover, the Employer acknowledged that the contributions it receives, such as donated services, are calculated as value-added to the organization. In the instant case, the Employer's revenue during the fiscal year 2004/2005, including $228,286 of in-kind contributions, totaled $466,686. The record established that the Employer's gross revenue for the past twelve months was about the same as in 2004/2005. As such, the Employer's revenue exceeds the jurisdictional standard of $250,000.[7]

As regards the Employer's impact on interstate commerce, I note that the Employer continues to receive grants from the federal government and that in fiscal year 2004/2005 it received at least $50,000 in grants from the federal government, in addition to its purchases of

---

[6] The Internal Revenue Service treats in-kind transfers as income and bases its taxation on the fair market value of the good involved. *United States v. Parr*, 509 F.2d 1381, 1385 (5th Cir. 1975), citing *C.I.R. v. John Smith*, 324 U.S. 177, 188 (1945) ("items of income need not be in the form of currency so long as they can be valued in its terms.")

[7] The Employer did not provide the amount of in-kind contributions in its profit and loss statement for the last calendar year. Nevertheless, the record establishes that the Employer continues to use between 10 and 12 pro-bono attorneys on a regular basis, and the combined value of their services, when added to the Employer's other revenues, easily exceeds the Board's jurisdictional standard.

services and products from national concerns and/or from outside the state. Thus, the Employer's operations have a substantial effect on interstate commerce so as to establish the required statutory jurisdiction. See *Wayne County Neighborhood Legal Services, Inc.*, 229 NLRB 1023 (1977); *Camden Regional Legal Services, Inc.*, 231 NLRB 224 (1977). In all of these circumstances, I find that it will effectuate the policies of the Act to assert jurisdiction herein.

Overview of the Employer's Operations

The Employer maintains an office in Richmond, California where it has four regular employees, including Executive Director Walter Bank, Directing Attorney Robert Ross, Pro-Bono Coordinator/Paralegal Laine Lawrence and Office Manager/Paralegal Suzanne Tchan-Gross. Bank, also an attorney licensed to practice law in California, works three days per week, while the other three employees work full-time 5 days per week. Bank manages the Employer's operation and reports directly to its Board of Directors. The other staff members report to him. Bank is responsible for all aspects of the Employer's operation except providing direct legal services. Among other things, he administers payment of all bills and expenses, makes sure employees are paid, ensures that reports are prepared and filed, provides educational programs, engages in fundraising, and reports to the Board of Directors as to the financial and operational status of the organization.

At the Richmond office, Ross, Lawrence and Tchan-Gross provide direct legal services to the Employer's clients. Ross handles all matters involving litigation and housing/real estate. Lawrence, a trained paralegal, handles all matters involving credit card debt, social security overpayments, temporary restraining orders (TRO's) for elder abuse and domestic violence, and counseling on preparing for long term care. Tchan-Gross functions as the intake worker and is

the clients' first point of contact. As such, Tchan-Gross interviews the clients to identify the nature of their legal problem, and she determines whether the matter should be directed to Ross or Lawrence based on their assigned area of expertise. For example, litigation or housing/real estate work is automatically assigned to Ross, while issues relating to credit card debt, social security overpayments, TRO's or long term care, are automatically assigned to Lawrence. Tchan-Gross then makes an appointment for the client to meet with either Ross or Lawrence. Ross and Lawrence get four new cases every week as assigned by Tchan-Gross based on their respective expertise. On occasion, Lawrence and Ross may agree to cover appointments for each other if one of them has a large caseload.[8]

In providing legal services, the Employer also uses unpaid volunteers such as interns, law clerks, office clerical support, and pro-bono attorneys. The pro-bono attorneys are comprised of active and retired attorneys. There are approximately 10 to 12 pro-bono attorney volunteers working for the Employer on a regular basis. A majority of the attorney volunteers provide legal assistance to the Employer's clients at any of the ten senior centers serviced by the Employer throughout Contra Costa County. There are presently two volunteer attorneys who work at the Employer's Richmond office. One of them is a retired administrative law judge, who volunteers on Wednesday mornings to do legal research primarily for Lawrence, and the other is a retired attorney who volunteers once a month for three hours to draft wills for clients at no charge. In a few instances, a volunteer attorney may take a case, although no specific examples were provided. A personal friend of Tchan-Grosse's also volunteers two or three half days per week to assist with intake and clerical duties. The Employer has not had any interns or law clerks in

[8] Bank testified that cases are accepted or declined according to Ross's wishes and that he honors Ross' wishes because he (Bank) is not involved in directly providing legal services. However, the Employer did not provide any examples of how, when or the frequency with which Ross performs this function. Ross denied that he is responsible for accepting or declining cases.

the last two years, and the "Staff Attorney" position has been vacant for an unspecified period of time.

Robert Ross

Despite the Employer's contention that Directing Attorney Robert Ross is a statutory supervisor, no evidence was presented to show that he has any authority to hire, fire, issue discipline, handle grievances, set wages, reward, transfer, promote, suspend, lay off, or recall any employees, or that he ever participated in or effectively recommended any such supervisory actions.

As set forth in an organizational chart and job description supplied by the Employer, the "Directing Attorney" (Robert Ross) "supervises" the employees working underneath him, including the staff attorney (a vacant position), pro-bono attorneys, paralegal (a vacant position), and law clerk/intern volunteers. These documents do not elaborate about the Directing Attorney's supervisory authority. With respect to the volunteer attorneys, Executive Director Bank initially testified that Lawrence is responsible for tracking their work, making sure they are doing what they say they are doing, and communicating with them about any problems or issues they have. However, Bank later acknowledged that Ross does not direct the work of volunteer attorneys. Rather, according to Bank, pro-bono coordinator/paralegal Laine Lawrence is responsible for tracking the work performed by volunteer attorneys, making sure they are doing what they say they are doing, and maintaining a record of the hours they work. Each time a volunteer attorney sees a client at one of the centers; he or she completes a form and forwards it to Lawrence.

Bank also testified that Ross is the only paid full-time attorney on staff and, as such, "there is no other person that can" supervise the legal staff, including Lawrence. In asserting that

Ross is engaged in the daily supervision and direction of Lawrence's work, Bank explained that, by law, Lawrence, a paralegal, cannot provide legal services without the direction of a licensed attorney. Bank did not provide any specific examples of Ross supervising or directing Lawrence's work.

For his part, Ross denied that he supervises any employees, including Lawrence. Rather, he testified that Bank, who is also a licensed attorney, supervises both him and Lawrence. Also, Ross testified that while he and Lawrence discuss their respective cases with each other frequently, he does not on a daily basis consult with Lawrence about her work. Rather, Lawrence's work is routine and repetitive in nature and, thus, there is no need for her to consult him regarding her case work; she has worked for the Employer for 20 years. In addition, the record reveals that Ross does not review Lawrence's cases, and Lawrence does not work under Ross on any of his cases; they each have their own caseloads. Only Bank reviews Lawrence's cases, and it is undisputed that Bank alone performs Lawrence's annual written evaluation, without any input from Ross. In fact, in the ten years that Bank has been with the Employer, Bank has never asked Ross his opinion of Lawrence's work performance.[9]

As regards Ross' alleged supervision of law clerks and interns, the Employer has not had any law clerks or interns in the last two years. When there were law clerks, they were hired primarily to do TRO's under a particular grant. However, Lawrence, who typically does the TRO's, showed the law clerks what was required, such as which boxes to check off on forms. Also, the clerks went to both Lawrence and Ross for assistance in preparing supporting declarations for the TRO's. The law clerks also answered phones, did intake interviews and assisted the office manager in performing clerical work, at which time they took direction from

[9] There is no evidence that Ross has any additional responsibilities or duties when Bank is not in the office.

office manager Tchan-Grosse. Occasionally, when the law clerks had nothing to do, Ross asked them to call clients to find out what they needed or to help clean clients' apartments so they would not be evicted. He did so on his own initiative because, as he explained, he wanted the clerks to have a positive work experience. There is no evidence that Ross had any other involvement in the law clerks' work activities.

As to the remaining positions referred to in the job description and organization chart as coming under the supervision of the Directing Attorney, the record established that the Employer has no funding to fill the positions listed as "vacant" and, in fact, the paralegal position has not been filled for at least the last 10 years. With respect to the vacant "Staff Attorney" position, the record does not reflect that any staff attorney has been employed by the Employer since Ross' job title was changed to "Directing Attorney" ten years ago.[10] Moreover, no evidence was provided that Ross or anyone else ever supervised a staff attorney.

ANALYSIS

Supervisory Status of Robert Ross

The Employer asserts that Directing Attorney Robert Ross should be excluded from the petitioned-for bargaining unit because he is a statutory supervisor within the meaning of Section 2(11) of the Act. Section 2(11) of the Act defines a supervisor as:

> Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

[10] Throughout his 15-year tenure, Ross' job responsibilities have not changed. The only thing that changed was his title about ten years ago. Previously, he was referred to as a "Staff Attorney". Bank testified that Ross was made Directing Attorney at the request of the Board of Directors as part of its reorganization ten years prior. Ross claims, however, that he requested the change in title so that he might have more clout in dealing with opposing parties.

It is well settled that the disjunctive listing of supervisory indicia in Section 2(11) does not alter the requirement that a supervisor must exercise independent judgment in performing the enumerated functions. Thus, the exercise of supervisory authority in a merely routine, clerical, perfunctory or sporadic manner does not elevate an employee into supervisory ranks. Opelika Foundry, 281 NLRB 897 (1986).

The Board refrains from construing supervisory status too broadly because the inevitable consequence of such a construction is to remove individuals from the protection of the Act. Quadrex Environmental Co., 300 NLRB 101, 102 (1992). Consistent with this principle, the burden of proving supervisory status rests on the party alleging that such status exists. NLRB v. Kentucky River Community Care, Inc., 532 U.S. 706 (2001). Here, for the reasons that follow, I find that the Employer has not met its burden in establishing that Ross is a supervisor.

In considering Ross' status in light of the supervisory indicia discussed above, I first note that the Employer presented no evidence that Ross has any authority to redress grievances, issue discipline, set wages, hire, transfer, reward, promote, suspend, layoff, recall or terminate employees. Also, there is no evidence that Ross has ever performed or effectively recommended any of these supervisory actions. The record also fails to establish that Ross responsibly assigns or directs the work of others. Rather, the work assignments are routinely doled out by Tchan-Gross based on pre-determined categorical designations.

Although the Employer further argued that Ross must supervise Laine because she, as a non-attorney performing legal work must under California law be supervised by a licensed attorney, there is no evidence that Ross actually directs Lawrence's work, and Bank's conclusionary statements, without supporting evidence, are insufficient to establish otherwise. See, e.g., *Volair Contractors, Inc.*, 341 NLRB 673, 675 (2004). On the other hand, Executive

Director Bank is also an attorney licensed to practice law, and he is responsible for managing the Employer's operations. As such, Ross is not, as Bank claimed, the only person who "could" supervise Lawrence's tasks that require legal direction. Moreover, it is undisputed that Bank, as opposed to Ross, evaluates Lawrence's work.

In all of these circumstances, I find that the Employer has failed to establish that Ross is a statutory supervisory within the meaning of the Act, and I shall include him in the petitioned-for unit found appropriate herein.

"Professional" Employee Status

Neither party contends that Directing Attorney Ross is a professional employee. However, where the Board has sufficient information to put it on notice that there is an issue with respect to the professional status of employees, it must conduct further inquiry and cannot rely on the fact that the parties do not raise the issue. See *Pontiac Osteopathic Hospital*, 327 NLRB 1172 (1999). Section 2(12)(a) of the Act describes a professional employee as:

> any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

Based on his legal education, law license and professional responsibilities, I find that Directing Attorney Ross is a professional employee within the meaning of the Act. I further find that Lawrence and Tchan-Grosse are not professional employees, as they are not required to hold a license to practice law. Nor is there any evidence that they meet the educational elements of professional status.

Inasmuch as the Employer does not challenge the appropriateness of the petitioned-for unit, and the record establishes that the employees in the proposed unit share a substantial community of interest, I find the petitioned-for unit combining nonprofessional and professional employees is appropriate for the purposes of collective bargaining. See *Evergreen Legal Services*, 246 NLRB 964, 967 (1979); *Neighborhood Legal Services, Inc.*, 236 NLRB 1269, 1278 (1978); *Air Line Pilots Ass'n, Int'l.*, 97 NLRB 929 (1951).

CONCLUSIONS AND FINDINGS

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, as well as the parties' arguments made at the hearing and the brief filed by the Petitioner, and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. The Petitioner claims to represent certain employees of the Employer, and a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6*)* and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time attorneys, paralegals, pro-bono coordinators, secretaries, receptionists and other support staff at the Employer's Richmond, California facility; excluding all volunteers, guards, and supervisors as defined in the Act.

There are approximately three employees in the unit found appropriate.

The unit set forth above includes professional and nonprofessional employees. However, the Board is prohibited by Section 9(b)(1) of the Act from including professional employees in a unit with employees who are not professionals unless a majority of the professional employees vote for inclusion in such a unit.[11] Accordingly, to ascertain the desires of the professional employee as to inclusion in a unit with nonprofessional employees, I shall direct separate elections in the following voting groups:

> Voting group (a): All full-time and regular part-time paralegals, pro-bono coordinators, secretaries, receptionists and other support staff at the Employer's Richmond, California facility, but excluding volunteers, attorneys, guards, and supervisors as defined in the Act.
>
> Voting group (b): All full-time and regular part-time attorneys at the Employer's Richmond, California facility, but excluding all other employees, volunteers, guards and supervisors as defined in the Act.

There are approximate two employees in voting group (a) and one employee in voting group (b).

The employees in the nonprofessional voting group (a) will be asked on their ballots: Do you wish to be represented for purposes of collective bargaining by the National Organization of Legal Services Workers NOLSW, UAW Local 2320, AFL-CIO?

The employee in voting group (b) will be asked two questions on his ballot: (1) Do you wish to be included with nonprofessional employees in a single unit for purposes of collective bargaining? (2) Do you wish to be represented for purposes of collective bargaining by the National Organization of Legal Services Workers NOLSW, UAW Local 2320, AFL-CIO?

[11] Under *Sonotone Corp.*, 90 NLRB 1236 (1956), and Section 9(b)(1) of the Act, the Board cannot join professionals and nonprofessionals in the same unit without the desire of the professional employees being determined in a separate vote.

If the professional employee in voting group (b) votes "yes" to the first question, indicating his wish to be included in a unit with nonprofessional employees, he will be so included. His vote on the second question will then be counted together with the votes of the nonprofessional employees to decide whether or not the Union has been selected to represent the combined bargaining unit. If, on the other hand, the professional employee does not vote for inclusion, he will not be included with the nonprofessional employees and his vote on the second question will not be counted since a residual unit of only one employee would not be appropriate for bargaining purposes.[12] If a majority in either the combined unit or the nonprofessionals alone vote for the Union, I will issue an appropriate Certification of Representative for such unit.

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote in the manner described above on whether or not they wish to be represented for purposes of collective bargaining by the NATIONAL ORGANIZATION OF LEGAL SERVICES WORKERS NOLSW, UAW LOCAL 2320, AFL-CIO. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been

[12] It is contrary to Board policy to certify a representative for bargaining purposes in a unit consisting of only one employee. See *Roman Catholic Orphan Asylum*, 229 NLRB 251 (1977).

permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the NLRB Region 32 Regional Office, Oakland Federal Building, 1301 Clay Street, Suite 300N, Oakland, California 94612-5211, on or before **July 12, 2006.** No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (510) 637-3315. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

V. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **July 19, 2006.** The request

may **not** be filed by facsimile. In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, D.C. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for electronic filing can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlrb.gov.

Dated: July 5, 2006

_____

William A. Baudler, Acting Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5211

32-1323

Classification Index

260-3300-000
177-8500-000
177-9325-000